

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 448 of 2005 (M/B)

Arshad Jamil S/o Sri Jamil Ahmad,
R/o No. 7 Shekhpuri,
Opposite Dev Nursing Home,
Roorkee, District Haridwar. Petitioner

Versus

1. State of Uttaranchal
through Principal Secretary (Personnel),
Secretariat, Dehradun.
2. District Magistrate, Haridwar.
3. Tehsildar, Roorkee,
District Haridwar. Respondents

Mr. S. Dhulia, Senior Advocate a/b Mr. D.S. Patni, Advocate for the petitioner.
Mr. K.P. Upadhyaya, Standing Counsel for the State of Uttaranchal.

Coram: Hon. Cyriac Joseph, C.J.
Hon. M.M. Ghildiyal, J.

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

1. The petitioner was given a caste certificate by the then Tehsildar, Roorkee, District Haridwar on 29.06.2002. On the basis of a complaint received about the right of the petitioner to get the said caste certificate, an enquiry was conducted and on the basis of the finding in the enquiry, the caste certificate dated 29.06.2002 has been cancelled by the third respondent Tehsildar, Roorkee as per Annexure 1 Order dated 02.03.2005. Aggrieved by the said order of cancellation of the caste certificate, the petitioner has filed this writ petition.

2. We have heard Mr. Sudhanshu Dhulia, Senior Advocate assisted by Mr. D.S.Patni, Advocate for the petitioner and Mr. K.P. Upadhyaya, learned Standing Counsel for the State of Uttaranchal who accepted notice for respondents No. 1 to 3.

3. The main ground to attack against Annexure 1 Order is that it was passed in violation of the principles of natural justice. It is contended that before cancelling the caste certificate issued to the petitioner, the third respondent did not issue any notice to the petitioner and give him any opportunity to state his objections, if any, to the proposal. Annexure 1 Order also shows that no such notice was issued to the petitioner and no opportunity was given to him to state his objections to the proposal. Learned Standing Counsel appearing for the respondents submitted that Annexure 1 Order was issued on the basis of the finding in an enquiry conducted by a committee into the allegation that the caste certificate was wrongly issued to the petitioner and that the Government had issued notice to the petitioner before deciding that the petitioner is not a domicile of Uttaranchal and therefore, it was not necessary to issue notice to the petitioner again by the third respondent before issuing Annexure 1 Order.

4. We do not agree with the above contention of the learned Standing Counsel. Even if the petitioner had participated in the enquiry stated to have been conducted by a committee and even if a finding was entered by the committee against the petitioner and even if the State Government had, after issuing notice to the petitioner, decided that he is not a domicile of Uttaranchal, the petitioner was entitled to a notice containing the proposal to cancel the caste certificate already issued and giving him an opportunity to state his objections, if any, to the proposal. If the petitioner was given such a notice, he would have got any opportunity even to assail the findings of the committee and to state why the findings of the committee should not be acted upon by the third respondent or why the decision of the Government cannot call for cancellation of the certificate already issued. Therefore, we are of the view that Annexure 1 Order was passed in violation of the principles of natural justice and hence, it is liable to be quashed on that ground. We make it clear that we have not considered any other contention raised by the petitioner and that

Annexure 1 Order is being quashed only on the ground of violation of the principles of natural justice.

5. In the above circumstances, Annexure 1 Order dated 02.03.2005 is quashed. It will be open to the third respondent to issue notice to the petitioner proposing to cancel the caste certificate already issued to him and giving him reasonable opportunity to state his objections, if any, to the proposal and to pass fresh orders in accordance with law after considering the objections, if any, submitted by the petitioner.

6. The Writ petition is disposed of as above.

(M.M. Ghildiyal, J.)
06.05.2005

(Cyriac Joseph, C.J.)
06.05.2005

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